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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,621	10/28/2003	Stefan Kiefer	13914-016001 / 2003P00626	3903
32864 7590 09/10/2009 FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER				
FADOK, MARK A				
ART UNIT		PAPER NUMBER		
3625				
NOTIFICATION DATE		DELIVERY MODE		
09/10/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/695,621

Applicant(s)

KIEFER ET AL.

Examiner

MARK FADOK

Art Unit

3625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 13-15 and 21-31.
Claim(s) withdrawn from consideration: 1-12 and 16-20.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Mark Fadok/
Primary Examiner, Art Unit 3625

Continuation of 11, does NOT place the application in condition for allowance because: In regards to the USC 101 rejection, the examiner apologizes for the typo where claim 13 was listed as 1, however it is clear that claim 13 was meant to be included in the rejection since it has the same phrase "at a computer system" as claim 28. Therefore, a new rejection is not deemed necessary and the applicant should understand the rejection of 101 to be applicable to claims 13 and 28 instead of claims 1 and 28.

In regards to the rejection on the merits:

In regards to claims 13 and 28, applicant argues that the prior art does not teach that the buyer provides the different pricing options available to the bidder (see applicant's PG PUB 20050091122, para 0048 and 0050) this feature is not claimed in the instant claims and may not be read into the claims from the disclosure. In fact, para 0055 includes two scenarios where the buyer may or may not include complex pricing selections. Applicant further argues that the sequence is different from the prior art. The examiner disagrees and notes once again that claims do not include "each bidder is able to select an option from multiple options presented to the bidder". Applicant is advised to contact the examiner for further details regarding this feature.

In regards to claims 23 and 30, applicant argues that Davis does not teach providing different bid terms but not prices and points to Davis para 00156. The examiner disagrees and notes that the buyer has control over what information is provided to the supplier and indicates that leverage the buyer is trying to gain leverage. It is well understood that that in negotiations only limited information is provided and since the buyer has the capability to select which information from other quotes may be made available to the seller it is equally likely and predictable that the buyer may choose not to provide the competitors pricing.

In regards to claim 24 applicant argues that that Davis does not teach different location specific information. The examiner disagrees and directs the applicant's attention to para 0026 where the gives the location specific information to gain shipping charges from suppliers geographic specific location.

In regards to claim 27 applicant argues that Davis does not teach normalizing prices the examiner disagrees and directs the applicant's attention to para 37,148,155,161 and 162..